

# South Carolina Domicile Information



## - Basic Information -

### **Location:**

South Carolina is located on the Mid-Atlantic coast of the United States. It is bordered by North Carolina (N), the Atlantic Ocean (SE), and Georgia (SW).

### **Accessibility:**

South Carolina is served by eight commercial airports, four of which offer international service. South Carolina is crisscrossed by five interstate highways - I-85, I-26, I-77, I-95 and I-20 - that provide excellent east-west and north-south access. Commercial airports are within one hour of any location in South Carolina.



### **Applicable Legislation:**

Act 331, signed by Governor Jim Hodges on June 6, 2000, established South Carolina as a captive insurance domicile. The captive industry in South Carolina is governed by South Carolina Code of Laws Title 38. More specifically, 38-90-10 et seq (the Captive Act); 38-10-10 et seq (the Protected Cell Act) and Regulation 69-60 (2000). Risk Retention Groups formed as captives are governed by 15 USC 3901-3906 (Liability Risk Retention Act of 1986).

### **Number of Captives:**

South Carolina issued 2 licenses in 2000; 9 in 2001; 17 in 2002; 39 in 2003, 47 in 2004 and 21 in 2005; 29 in 2006.

### **Regulatory Agency:**

South Carolina Department of Insurance-Alternative Risk Transfer Services

## - Regulatory Issues -

### **Acceptable Insurance Subsidiaries:**

Pure or single-parent, association, captive reinsurance company, sponsored captive insurance company (using protected cells), special purpose captive insurance company, branch captive, industrial insured captive insurance company or Special Purpose Financial Captive (SPFC).

### **Acceptable Corporate Forms:**

Stock, Mutual, Reciprocal, Nonprofit or LLC

### **Permitted Business:**

A captive insurance company, when permitted by its articles of incorporation or charter, may apply to the director for a license to do any and all insurance, except workers' compensation insurance, authorized by this title; however:

- (1) a pure captive insurance company may not insure any risks other than those of its parent, affiliated companies and/or controlled unaffiliated business;
- (2) an association captive insurance company may not insure any risks other than those of the member organizations of its association and their affiliated companies;
- (3) an industrial insured captive insurance company may not insure any risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies;

(4) in general, a special purpose captive insurance company may only insure the risks of its parent. Notwithstanding any other provisions of this chapter, a special purpose captive insurance company may provide insurance or reinsurance, or both, for risks as approved by the Director;

(5) a captive insurance company may not provide personal motor vehicle or homeowner's insurance coverage or any component of these coverages;

(6) a captive insurance company may not accept or cede reinsurance except as provided in Section **38-90-110**.

### ***Direct Insurance Permitted:***

All commercial lines except statutory coverages such as Workers' Compensation\* and Automobile Liability.

### ***Reinsurance Permitted:***

A captive insurance company may provide reinsurance, as authorized in SC Title 38, on risks ceded by any other insurer.

### ***Policy Form and Rate Approval:***

Not required

### ***Local Office Requirement:***

To conduct insurance business in this State a captive insurance company shall:

- Hold at least one board of directors meeting, or in the case of a reciprocal insurer, a subscriber's advisory committee meeting, each year in South Carolina;
- Maintain its principal place of business in this State, or in the case of a branch captive insurance company, maintain the principal place of business for its branch operations in this State; and
- Appoint a resident registered agent to accept service of process and to otherwise act on its behalf in this State.

### ***Capitalization & Solvency Requirements:***

See SC Code 38-90-40 and 38-90-50 for specifics on statutory minimum capital and surplus. SPFCs are governed by provisions of Article III 38-90-460.

### ***Premium Taxes:***

The tax provided for in this section constitutes all taxes collectible under the laws of this State from a captive insurance company, and no other occupation tax or other taxes may be levied or collected from a captive insurance company by the State or a county, city, or municipality within this State, except ad valorem taxes on real and personal property used in the production of income.

### ***Direct Premiums***

A captive insurance company shall pay to the department by March 1 of each year, a tax at the rate of four-tenths of one percent on the first twenty million dollars and three-tenths of one percent on each dollar thereafter, **up to a maximum of \$100,000**. Taxes are based on **the direct premiums** collected or contracted for on policies or contracts of insurance written by the captive insurance company during the year ending December 31 next preceding, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums which shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

\*Workers Compensation must be Fronted by an admitted insurer

## **Reinsurance tax**

A captive insurance company shall pay to the department by March 1 of each year, a tax at the rate of two hundred and twenty-five thousandths of one percent on the first twenty million dollars of assumed reinsurance premium, and one hundred fifty thousandths of one percent on the next twenty million dollars and fifty thousandths of one percent on the next twenty million dollars and twenty-five thousandths of one percent of each dollar of assumed reinsurance premium thereafter, **up to a maximum tax of \$100,000**. However, no reinsurance tax applies to premiums for risks or portions of risks which are subject to taxation on a direct basis pursuant to subsection (A).

A premium tax is **not** payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if the transaction is part of a plan to discontinue the operations of the other insurer and if the intent of the parties to the transaction is to renew or maintain business with the captive insurance company.

## **Minimum Tax**

If the aggregate taxes to be paid by a captive insurance company calculated under subsections (A) and (B) amount to less than five thousand dollars in any year, the captive insurance company shall pay a minimum tax of five thousand dollars for that year. However, in the calendar year in which a captive is first licensed, the minimum tax will be prorated on a quarterly basis. For captives licensed in the first quarter, the prorated minimum tax is \$5,000. For captives licensed in the second quarter the prorated minimum tax is \$3,750. For captives licensed in the third quarter the prorated minimum tax is \$2,500. For captives licensed in the fourth quarter, the prorated minimum tax is \$1,250. In the calendar year in which a captive is first licensed, if the aggregate taxes to be paid by a captive insurance company calculated under subsections (A) and (B) amount to less than the minimum tax prorated on a quarterly basis, the captive insurance company shall pay the prorated minimum tax for that corresponding quarter. Taxes for SPFCs are not prorated.

**In the case of a branch captive** insurance company, the tax provided for in this section applies only to the branch business of the company.

**A captive reinsurance company** shall pay to the department by March first of each year a captive reinsurance tax of five thousand dollars.

## ***Investment Restrictions:***

A pure captive insurance company, an industrial insured captive insurance company, and a sponsored captive insurance company are not subject to any restrictions on allowable investments contained in SC Title 38; however, the director may prohibit or limit an investment that threatens the solvency or liquidity of the company.

An association captive insurance company, a sponsored captive insurance company, and an industrial insured captive insurance company insuring the risks of an industrial insured group shall comply with the investment requirements contained in Title 38. Notwithstanding any other provision of this title, the director may approve the use of alternative reliable methods of valuation and rating.

## **- Annual Operating Costs -**

Application Fee	\$200
Initial Insurance License Fee	\$300
Annual License Renewal Fee	\$500
Application Review Fee	\$3200*
Document Certification Fee	\$15/per
Audit Fee	By negotiation
Legal	By negotiation
Management Fee	By negotiation
Annual review for SPFCs	\$12,000
Other	
<b>Minimum Total</b>	

\*Fee may differ if contracted outside the Department.

## **-Contacts-**

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